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FILED

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CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY _____
DEPUTY CLERK

9
10 IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

11 LLOYD THOMAS BERNHARD, II,

12 An individual,

13 STEPHANIE CELESTE TEJADA-OTERO, An
individual,

16 Plaintiffs,

17 Vs.

20 COUNTY OF SAN JOAQUIN, a public entity,
21 SAN JOAQUIN COUNTY HEALTH AND
22 HUMAN SERVICES AGENCY, a subdivision or
entity of THE COUNTY OF SAN JOAQUIN,
23 ADRENNNA TORRENCE, an individual, LESLIE
24 BILLINGS, an individual, SONIA PIVA, an
individual, SHANNON BLANKENSHIP, an
individual, DIANE NOWAK, an individual,
25 VALESQUEZ – first name unknown, an
individual, JASMINE CEJA, an individual,

Case No: 2:21-CV-0172 TLN DB PS

FIRST AMENDED COMPLAINT

Claim 1: 42 U.S.C. Section 1983
(Unwarranted Seizure)

Claim 2: 42 U.S.C. Section 1983
(Coerced/Unwarranted Medical
Examinations and Procedures)

Claim 3: 42 U.S.C. Section 1983
(Judicial Deception,
Unnecessary/
Excessive Duration of Continued
Detention)

Claim 4: 42 U.S.C. Section 1983
(Malicious Prosecution)

Claim 5: *Monell*-Related Claims

- Count One
(Unwarranted Seizures)

- Count Two
Unwarranted Medical
Examinations/Procedures

- Count Three
(Judicial Deception)

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FIRSt AMENDED COMPLAINT
BERNHARD, TEJADA-OTERO V. CO. OF SAN JOAQUIN
Case No: 2:21-CV-0172 TLN-DB PS

1 individual, MISTY ARBUCKLE, an individual,
2 DANEVIA RHONE, and individual, MARISOL
3 ENOS-SCHAFFER, an individua; YENI
4 GONZALES, an individual, DOE HHSA Workers
2-10, known but unidentified individuals; and
DOES 1 through 50, inclusive,

JURY TRIAL DEMANDED

5
6 Defendants
7
8
9

10 **Jurisdiction and Venue**

11 1. This action is brought pursuant to 42 U.S.C. §1983 to seek redress for
12 Defendants' actions taken under color of law which violated Plaintiffs' rights under
13 the United States Constitution. Defendants' conduct deprived Plaintiffs of their
14 fundamental constitutional rights secured under the United States Constitution's
15 First and Fourteenth Amendments, and under federal law.

16 2. Jurisdiction is conferred by 28 U.S.C. §§1343(a)(3) and 1343(a)(4), which
17 provides for original jurisdiction in this Court of all suits brought pursuant to 42
18 U.S.C. §1983. Jurisdiction is also conferred by 28 U.S.C. §1331 because the claims for
19 relief derive from the United States Constitution and the laws of the United States.
20 This court has supplemental jurisdiction over Plaintiffs' state law causes of action
21 pursuant to 28 U.S.C. §1367(a).

22 3. Venue properly lies in the Eastern District of California, in that the acts and
23 omissions, events and circumstances complained of herein occurred in the County of
24 San Joaquin, and it is believed that at least one defendant resides in the County of
25 San Joaquin.

¹ 4. Plaintiffs make the following allegations and claims upon personal knowledge
² and belief.

The Parties

4 5. At all times relevant to this Complaint, Plaintiffs Lloyd Thomas Bernhard, II,
5 and Stephanie Celeste Tejada-Otero, were residents of San Joaquin County,
6 California, and the biological parents of a daughter, At.B. (DOB: 4/7/16) and
7 biological parents of a daughter Al.B (DOB: 11/13/17).

8 6. The childrens' full names are known to all defendants, and are being withheld
9 herein, unless otherwise ordered by the court, to provide them some level of
10 confidentiality. The adult Plaintiffs may also be referred to collectively herein as
11 "parents" and/or "plaintiffs."

12 7. Prior to the removal of the children from the parents on or about January 29,
13 2019, as detailed in the Juvenile Dependency Court Records, the parents raised,
14 nurtured, provided guidance, education, and care, for the minor children, in a loving,
15 emotionally, academically and financially supportive, intact nuclear family.

16 8. The Plaintiffs' children may collectively be referred to herein on occasion as
17 "the child(ren)."

18 9. Defendant County of San Joaquin ("County") is a public entity of which the
19 San Joaquin County Health and Human Services Agency ("HHSA") is a subdivision.

20 10. HHSA is a County governmental agency organized and existing pursuant to the
21 law and policies of defendant County, which together with County, promulgated,
22 encouraged, and/or permitted, the policies, patterns, and practices under which
23 the individual Defendants and Does 1 – 50, committed the acts or omissions
24 complained of herein, and condoned, ratified, and encouraged the conduct of the

1 County employee-defendants, as complained of herein, or failed to train, or
2 inadequately trained the County employee-defendants.

3 11. At all times relevant to this Complaint, HHSA Worker Adrenna Torrence
4 ("Torrence") was an individual residing in the County of San Joaquin, and an officer,
5 agent, and/or employee of the County of San Joaquin and HHSA. At all relevant
6 times alleged herein, she was acting within the course and scope of her duties,
7 under color of law, and pursuant to the regularly established customs, policies, and
8 practices of the County of San Joaquin in doing the things alleged herein.

9 12. At all times relevant to this Complaint, HHSA Worker Leslie Billings ("Billings")
10 was an individual residing in the County of San Joaquin, and an officer, agent, and/or
11 employee of the County of San Joaquin and HHSA. At all relevant times alleged
12 herein, she was acting within the course and scope of her duties, under color of law,
13 and pursuant to the regularly established customs, policies, and practices of the
14 County of San Joaquin in doing the things alleged herein.

15 13. At all times relevant to this Complaint, HHSA Worker Sonia Piva ("Piva") was
16 an individual residing in the County of San Joaquin, and an officer, agent, and/or
17 employee of the County of San Joaquin and HHSA.

18 14. At all times relevant to this Complaint, HHSA Worker Shannon Blakenship
19 ("Blankenship") was an individual residing in the County of San Joaquin, and an
20 officer, agent, and/or employee of the County of San Joaquin and HHSA.

21 15. At all times relevant to this Complaint, HHSA Worker Diane Nowak ("Nowak")
22 was an individual residing in the County of San Joaquin, and an officer, agent, and/or
23 employee of the County of San Joaquin and HHSA.

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1 16. At all times relevant to this Complaint, HHSA Worker Valesquez, first name
2 unknown ("Valesquez") was an individual residing in the County of San Joaquin, and
3 an officer, agent, and/or employee of the County of San Joaquin and HHSA.

4 17. At all times relevant to this Complaint, HHSA Worker Jasmine Ceja ("Ceja")
5 was an individual residing in the County of San Joaquin, and an officer, agent, and/or
6 employee of the County of San Joaquin and HHSA.

7 18. At all times relevant to this Complaint, HHSA Worker Adriana Calderon
8 ("Calderon") was an individual residing in the County of San Joaquin, and an officer,
9 agent, and/or employee of the County of San Joaquin and HHSA.

10 19. At all times relevant to this Complaint, HHSA Worker Misty Arbuckle
11 ("Arbuckle") was an individual residing in the County of San Joaquin, and an officer,
12 agent, and/or employee of the County of San Joaquin and HHSA, and on information
13 and belief was also serving as Worker Sonia Piva's direct supervisor during the time
14 of the events alleged herein. At all relevant times she was acting within the course
15 and scope of her duties, under color of law, and pursuant to the regularly
16 established customs, policies, and practices of the County of San Joaquin in doing
17 the things alleged herein.

18 20. At all times relevant to this Complaint, HHSA Worker Danevia Rhone
19 ("Rhone") was an individual residing in the County of San Joaquin, and an officer,
20 agent, and/or employee of the County of San Joaquin and HHSA, and on information
21 and belief was also serving as Worker Sonia Piva, Misty Arbuckle, Marisol Enos-
22 Schaffer, and Yeni Gonzales' direct supervisor during the time of the events alleged
23 herein. At all relevant times she was acting within the course and scope of her
24 duties, under color of law, and pursuant to the regularly established customs,
25

1 policies, and practices of the County of San Joaquin in doing the things alleged
2 herein.

3 21. At all times relevant to this Complaint, HHSA Worker Marisol Enos-Schaffer
4 ("Enos-Schaffer") was an individual residing in the County of San Joaquin, and an
5 officer, agent, and/or employee of the County of San Joaquin and HHSA. At all
6 relevant times alleged herein, she was acting within the course and scope of her
7 duties, under color of law, and pursuant to the regularly established customs,
8 policies, and practices of the County of San Joaquin in doing the things alleged
9 herein.

10 22. At all times relevant to this Complaint, HHSA Worker Yeni Gonzales
11 ("Gonzales") was an individual residing in the County of San Joaquin, and an officer,
12 agent, and/or employee of the County of San Joaquin and HHSA.

13 23. At all times relevant to this Complaint, DOE HHSA Workers 2 - 10 were
14 individuals residing in the County of San Joaquin, and officers, agents, and/or
15 employees of the County of San Joaquin and HHSA acting within the course and
16 scope of their duties, under color of law, and pursuant to the regularly established
17 customs, practices, and policies of the County of San Joaquin in doing the things
18 herein alleged. Plaintiffs are ignorant of the true names and capacities of those DOE
19 HHSA Worker Defendants sued herein as DOE HHSA Workers 2 - 10, and for that
20 reason has sued such Defendants under such fictitious names. Plaintiffs will seek
21 leave of Court to amend this Complaint to identify the DOE HHSA Worker
22 Defendants when their identities have been ascertained. Each of the fictitiously
23 named DOE HHSA Worker Defendants was in some manner liable and legally
24 responsible for the harms sustained by Plaintiffs in that their conduct caused the
25 damages and injuries set forth herein.

1 24. Hereinafter, when referred to collectively, the Defendants in paragraphs 11
2 through 23, inclusive, may occasionally be referred to as the HHSA Defendants.

3 25. Plaintiffs are ignorant of the true names and capacities of those Defendants
4 sued herein as Defendant DOES 1 through 50, and for that reason have sued such
5 Defendants under such fictitious names. Plaintiffs will seek leave of Court to amend
6 this Complaint to identify the DOE Defendants when their identities have been
7 ascertained. Each of the fictitiously named DOE Defendants was in some manner
8 liable and legally responsible for the harms sustained by Plaintiffs in that their
9 conduct caused the damages and injuries set forth herein.

10 26. Plaintiffs are informed and believe and, based upon such information and
11 belief, allege that each of the Defendants is responsible in some manner for the
12 events and happenings referred to herein and was the legal cause of injury and
13 damages to Plaintiffs as herein alleged.

14 27. Plaintiffs are informed and believe and, based upon such information and
15 belief, allege that, at all times herein mentioned, each and every Defendant was the
16 agent and/or employee of their co-defendants, and each of them, acting at all
17 relevant times herein under color of the authority of governmental entity under the
18 statutes, ordinances, regulations, customs and usage of the State of California
19 and/or the United States Constitution and related laws.

20 28. Whenever this Complaint makes reference to any act of "Defendants," such
21 allegations shall be deemed to mean all named Defendants, or their officers, agents,
22 managers, representatives, employees, heirs, assignees, customers, tenants, who
23 did or authorized such acts while actively engaged in the operation, management,
24 direction or control of the affairs of Defendants (or any of them) and while acting

1 within the course and scope of their duties, except as specifically alleged to the
2 contrary.

3 29. At all times relevant to this Complaint, Defendants, and each of them
4 including all DOE Defendants, were the knowing agents and/or alter egos of one
5 another. Defendants directed, ratified, and/or approved each other's conduct and
6 that of each other's agents or employees. Defendants, and each of them including
7 all DOE Defendants, agreed upon, approved or ratified each other's conduct, or
8 otherwise conspired together to commit all of the acts and/or omissions alleged
9 herein.

10 30. The HHSA Defendants, and each of them, were at all relevant times acting
11 within the course and scope of their duties as employees of the County of San
12 Joaquin.

13 31. Plaintiffs are informed and believe and, based upon such information and
14 belief, allege that each of the Defendants is responsible in some manner for the
15 events and happenings referred to herein and was the legal cause of injury and
16 damages to Plaintiffs as herein alleged.

17 32. The HHSA Defendants, and each of them, were at all relevant times acting
18 within the course and scope of their duties as employees of the County of San
19 Joaquin.

20 33. The HHSA Defendants, and each of them, were at all relevant times acting in
21 conformance with the regularly established customs and practices of the County of
22 San Joaquin.

23 34. The HHSA Defendants, and each of them, were at all relevant times acting
24 under color of law.

25 **Summary of Allegations**

1 35. Defendants , Piva, together with an unknown HHSA worker, seized Plaintiffs'
2 children on 01/29/19, at a home that was previously agreed upon with the court
3 appointed counsel for minor children, Gabrielle Tetreault, and was arranged through
4 parents full and cordial cooperation. The agreement was that maternal
5 grandmother would be with the children at the home address provided by parents
6 on 01/29/19, parents would be present in court on 01/30/19, as this was the first
7 knowledge they had of a juvenile dependence court appearance referencing their
8 children since they had all been out of town for a pre-planned trip. Parents were
9 not served with a warrant of any notice of any juvenile dependence hearing. Once
10 parents learned of the 01/30/19 court appearance, they immediately cooperated.
11 Prior to 01/29/22, it was agreed through the court appointed attorney for the minor
12 children, Tetreault, that the children were fine and no seizure of the children would
13 occur, and parents would appear in court on 01/30/19, again, as they had just
14 learned of same. Defendant Piva was aware that parents were never served with
15 Notice of Hearing or warrant. Piva was aware of the agreement between Tetreault
16 and parents, however, nevertheless, once Piva obtained the home address for the
17 children on 01/29/19, which parents willingly provided to Tetreault, defendant Piva
18 immediately arranged for a police escort, that same afternoon on 01/29/19, to meet
19 her at the location parents provided, so that she could seize the children, without
20 first obtaining a legal and/or proper warrant or parental consent. When police
21 officers arrived at the home prior to Piva arriving, they knocked on the door and had
22 a friendly conversation with maternal grandmother stating that they had received a
23 dispatch to wait for the HHSA workers to arrive at the home, and informing
24 maternal grandmother who was startled by their arrival, telling her not to worry
25 everything looks fine and they just probably want to see that the children are here

1 and okay and that's it. It was not their understanding that defendant Piva or any
2 other HHSA worker was coming to seize the children. Upon Piva's, together with
3 another HHSA worker's arrival to the address parents provided regarding their
4 children, Piva stood on the outside of the front door of the house where law
5 enforcement also was, demanding of maternal grandmother that she was to
6 immediately hand over the children in her custody while handing her a "warrant" for
7 same. Piva nor her accomplish ever asked to come in the home, instead they chose
8 to wait outside the open front door to be handed the children. Children did not
9 want to go with Piva and were distressed when they had to leave their maternal
10 grandmother's care. When Tetreault became aware of Piva's actions on the
11 afternoon of 01/29/19, and her seizure of the children, she was very upset.
12 Subsequently, Piva communicated and documented that she only received a "tip" as
13 to the location of the children on 01/29/19, inferring their location was received
14 without the parents cooperation. Piva did not document or mention how she
15 received the "tip" or from whom, and intentionally omitted the fact of any
16 involvement or mention of the minors' court appointed Attorney Tetreault was the
17 individual who recommended the arrangements and agreement regarding the
18 children who were to be with their maternal grandmother on 01/29/19, with
19 parents full cooperation. On 01/24/19, Piva sent an email to District Attorney Buzo,
20 which states in part, that the HHSA, "As of now, we have had no luck on our end.
21 I've called the phone numbers on file for the parents and they either go straight to
22 voicemail or are disconnected. I've also left a message for the grandmother." Piva
23 does not identify which grandmother she "left a message for" and what the message
24 said that was "left" or where it was "left," Neither grandmother received a message
25 from Piva. Parents did not receive a message from Piva. Piva goes on to state in her

1 01/24/19 email to District Attorney Buzo that in a “routine traffic stop”
2 “grandmother” told the Tracy Police Officer “law enforcement” that “the family left
3 for vacation.” Piva further states to D.A. Buzo, “As for the warrants it is my
4 understanding that they are correct for our Agency, but we understand that Law
5 enforcement does not acknowledge them as a viable warrant.” Piva and her
6 accomplice, seized the children on 01/29/19, even though they had no evidence to
7 suggest that the children were in immediate danger of sustaining severe bodily
8 injury or death in the short period of time it would normally take to obtain a legal,
9 proper warrant. Piva and her accomplice did these things without first pursuing
10 reasonable means of investigation, and without even thinking to consider lesser
11 intrusive alternative means of ameliorating any perceived threat, real or imaginary,
12 to the Plaintiffs’ children. Of note is that on 01/16/19, defendants Piva and Arbuckle
13 met with District Attorney Sant at the D.A. office. Mr. Sant informed defendants,
14 Piva and Arbuckle, that he spoke with Judge Abdallah who had signed the warrant
15 presented to him on January 3, 2019, but thereafter agreed he was in a hurry when
16 he signed the Order. It was relayed to the defendants that those warrants were to
17 be thrown out and new warrants would need to be prepared. Plaintiffs are not
18 aware that this was ever done. Again, no warrants were ever served on parents.

19 36. Once the children were seized and firmly ensconced in the County’s “care,”
20 Defendant Piva, Torrence and Calderon fabricated material evidence and
21 suppressed material exculpatory evidence in crafting reports which they submitted
22 to the Juvenile Court in order to continue At.B’s and Al.B’s detention from their
23 parents’ custody. Their efforts to mislead the Juvenile Court were effective and
24 resulted in this family being needlessly torn apart and separated for a grossly
25 excessive period of time.

37. While the plaintiffs' tender age children were in the County's custody, the defendants subjected the children to multiple unwarranted investigatory medical examinations and procedures, and taking of photographs of the children, without the parents' consent, and in at least one instance over the parents' strenuous objections.

38. This is not the first time the County of San Joaquin and its workers have been sued due to its workers seizing children without just cause, conducting unwarranted medical examinations, and lying to the Juvenile Court in Court Reports. The fact of the matter is that these things happened, and continue to happen, on a fairly regular basis to other families due to San Joaquin County's system wide deliberate indifference to the rights of parents with whom its workers regularly come into contact; and, its deliberate indifference to the need to train and supervise its workers to ensure they adhere to the constitutional mandates that restrict and circumscribe their power to seize children and obtain medical examinations without first obtaining a warrant.

Underlying Facts

- *Stephanie and Lloyd Get Engaged and Start Their Family*

39. Stephanie Tejada-Otero was a student at Lathrop High School where she was an Honor Roll student. In Jr. High School, she was nominated and voted the School's Student Body President for all of the 8th Grade. At that time as well, she was the Captain of her Volley Ball Team and Captain of her Soccer Team. Once in High School, Stephanie was a champion swimmer on her High School team. She was on her school's Speech and Debate Team. Academics and sports were very important to her as she always strived to get good grades, especially straight A's. She enrolled herself in Life Management classes, Photography classes, Culinary

1 classes and Fashion and Design classes. In fact, she was so advanced and talented in
2 her Fashion and Design class that her teacher would have to customize a more
3 complex class final examination for Stephanie since she had already excelled during
4 the regular school year in the questions and assignments that were previously
5 prepared for the standard class final. She also enjoyed singing in her Chior class, as
6 well as sewing, cooking, dancing, cosmatology, and interior design. Due to her
7 family's schedule, she would have to walk the several miles from her family's home
8 to and from her high school each school day. Come rain or shine, Stephanie would
9 indeed walk those several miles each day to and from school, usually alone, with her
10 books and binders in her backpack. This would entail waking up extra early to
11 account of the walking distance and time it would take her to arrive at school on
12 time and get to the classes she so much enjoyed. Many days, sometimes before
13 school, after school or on the weekends, Stephanie would be in the company of her
14 younger cousins and would enjoy associating with them and frequently volunteering
15 to babysit some of them as well. Stephanie has always had a love of reading and
16 usually you can find her reading a book in her quiet time. She is bilingual and helps
17 interpret whenever needed in any setting. Stephanie has always had a love for
18 animals and has rescued and nurtured many of them throughout the years. She also
19 participated as a participated as a volunteer at an animal shelter and rescue non-
20 profit organization. Her friends and family refer to her as the "animal whisperer"
21 because of her kind and gentle way with animals.

22 40. Lloyd Bernhard attended and graduated from Lathrop High School. Lloyd was
23 an Honor Roll Student who was enrolled in Pre A.P. and A.P classes. In addition,
24 Lloyd was a student athlete and was nominated and received his High School
25 Football Team Captain Star and Most Inspirational Player Trophy. In the years

1 growing up, Lloyd played several other sports, including as a Pitcher in Baseball for 7
2 years, Soccer, Basketball, Wrestling, Karate, Surfing, Diving, Swimming - where he
3 earned his Life Guard Certification, and he indeed saved the life of a toddler which
4 no one saw, (except for Lloyd), fall in the deepest part of the busy swimming and
5 saved the toddler from drowning. At the age of 3 years old, Lloyd was brought up
6 with a family R.V. and was constantly going on family outings and vacations. In
7 Junior High School Lloyd was nominated by one of his teachers as a United States
8 Student Ambassador, unbeknownst to him. Thereafter, through quite of process
9 collection of background information regarding character, academic records, and
10 interviews with Lloyd, he was selected as a United States Student Ambassador to
11 France, Italy nd Greece which prior to a 21 day oversees stay in each country, he
12 together with 21 other Student Ambassador's selected throughout the U.S., met
13 monthly for one year, to learn each selected visiting country's government,
14 language, (he studied and spoke the French language for 2 years), customs, and so
15 forth, because at the end of that year's studies the 21 students would then travel
16 together to those specific selected countries to meet and associate with other
17 students just like them in another part of the world. The U.S. Student
18 Ambassadorship was started by President Dwight Eisenhower with the hopes that if
19 students who display positive leadership qualities as youth, and learn about other
20 counties in their youth, and actually travel to those lands and meet those youth
21 personally, they will see, they are just like them, so when they grow up it will bring
22 "peace through understanding." Lloyd was first selected as a U.S. Student
23 Ambassador in Junior High School because of his perfect score on the California
24 State STAR test and because of his positive leadership qualities. After his first
25 successful Ambassadorship to France, Italy and Greece, Lloyd was again nominated

1 and selected, this time as a U.S. Student Ambassador to Australia. Lloyd went
2 through the same process over the year prior to traveling to Australia, and while in
3 Australia, he donated his own funds to provide protection for the natural roaming of
4 native Australian tortoises who swim/cruise in the Great Barrier Reef, where he also
5 scuba dived with them and other sea life while there. Lloyd cooked and ate with the
6 native aborigines, cuddled with Koalas, enjoyed the wild herds of kangaroos, and
7 played sports with Australian students, visited their homes, and their government
8 offices, and much more. Lloyd longed to teach his own children one day, the same
9 values and principles he espoused and wished to encourage the same understanding
10 and experiences toward whatever his children would find interesting to them.

11 41. Stephanie and Lloyd met in 2015, while they were students in the same Choir
12 Class in High School. Lloyd especially enjoyed Wednesdays in school because that
13 was always the day Stephanie would have her culinary class and after school would
14 bring Lloyd something special and very tasty that she had prepared for him to eat.
15 Through their choir class, they both would volunteer to participate in performing in
16 the community Tree Lighting Ceremony, parades, and fall concerts. Lloyd and
17 Stephanie maintained a friendship throughout this time. They often would serve
18 meals to the homeless, participate in a school Veteran's Breakfast and Lloyd
19 personally wrote to a known Holocaust Survivor who he wrote to, and arranged to
20 travel to his high school, she accepted, and gave a very moving speech and
21 presentation to his entire high school regarding her personal experience during the
22 Holocaust. Over time, their friendship matured into something more serious.
23 Stephanie studied for and earned her Cosmetology Certificate. She sought
24 employment at Alta Beauty and Cosmetic Store and was selected to join their team,
25 which she eagerly did and thrived. Stephanie also started her own business as a

1 special event planner and choreographed her own music and taught dance routines
2 for such events. After High School, Lloyd worked for the school district, and also
3 pursued his passion and enjoyment of automobiles and working on them. Stephanie
4 and Lloyd became engaged in 2016, and moved in together in their own quaint 3
5 bedroom residence.

6 **- Stephanie and Lloyd Decide to Have a Baby**

7 42. Stephanie and Lloyd wanted to have a child together. They had secure
8 employment, their own nice, clean and tidy residence, had family nearby. When
9 Stephanie became pregnant, they could hardly wait for their daughter to be born.
10 They were so excited to meet her, love her, care for her and introduce her to family
11 and friends. On April 7, 2016, At.B. was born, fully developed and healthy in the
12 hospital with all family around. They felt blessed with their new little sweet
13 daughter. They were a loving family. Lloyd and Stephanie carefully chose their
14 daughter's name which had a meaning of the Greek Goddess of Wisdom, always
15 accompanied by her owl and the goddess of victory. They wanted this name as a
16 powerful inspiration for their baby daughter. Lloyd had visited Athens while in
17 Greece prior to At.B. being born. From the moment At.B. was born, Lloyd and
18 Stephanie doted on her, as did their entire families and friends. Paternal
19 grandmother, along with others, were indeed stationed outside their hospital room,
20 before, during and after At.B.'s birth. Lloyd and Stephanie had everything ready for
21 their arriving newborn, and had, prior to her birth, decorated their daughter's own
22 room at home, complete with a brand new crib, stuffed animals and child
23 decorations around the room, rocking chair, baby monitors, sweet clothing, and
24 plenty of baby supplies and a special poster on the wall with their daughter's name
25 spelled out in large beautiful, colorful flowers. They also had purchased the best

1 and most secure care seat for their newborn which they did a lot of research on and
2 brought it with them to the hospital to place their daughter's in after her birth to
3 safely ride home in.

4 43. Lloyd and Stephanie followed the recommendations for their daughter's sleep
5 and feeding schedule. Prior to their daughter's birth, they did their own research
6 and reading, regarding newborn's needs. Due to the well recognized health benefits
7 of breast feeding, in consultation with their medical provider, Lloyd and Stephanie
8 made the decision to breast feed At.B.

9 44. At.B.'s typical day would start at about 7:00 a.m. when feeding would occur at
10 that time and throughout the day. Upon At.B.'s waking, Stephanie and/or Lloyd
11 would change their daughter out of her pajamas and diaper if it was wet. After
12 feeding and diaper changing. At.B. would have tummy time on her cushioned baby
13 floor mat with mommy and/or daddy baby taking with her. Lots, and lots of pictures
14 of At.B. were frequently taken with sweet pride. There was also time in her upright
15 secure bouncer seat for babys. Throughout the day, Stephanie and Lloyd securely
16 placed At.B. in the Babybjorn Baby Carrier against their front chest. Both Stephanie
17 and Lloyd would routinely talk and sing to At.B.

18 45. The rest of At.B.'s day was similarly structured with everything from playtime to
19 nap time being scheduled as recommended by child rearing professionals. Feeding
20 and naps were timely and At.B. was always well fed, cleaned, rested, and loved.
21 At.B.'s day would start winding down around 5:25 p.m., thereafter she was brought
22 to her bassinet to get ready for bedtime.

23 46. At.B. continued to flourish, in good health and proper care, lots of love and
24 constant family association.

1 47. When At.B. was about a year old, Lloyd and Stephanie and At.B. resided in a
2 beautiful well kept, large 2-Story, 4 bedroom home with a well maintained backyard
3 in Tracy, California. Paternal grandmother, Roxane, and, paternal uncle, Randy,
4 resided together with Lloyd Stephanie and At.B., as well.

5 **- Stephanie and Lloyd Decide to Have another Baby**

6 48. Stephanie and Lloyd decide to have another baby and give At.B. a sibling.
7 At.B. is now about a year and a half and Al.B., a sister, is born on November 13,
8 2017. Everyone is ecstatic with the blessing of this new well developed, healthy
9 baby. At.B. dotes over her newborn little sister as do Stephanie, Lloyd, Paternal
10 Grandmother, Roxane, and Paternal Uncle, Randy, along with all other visiting family
11 members and friends. Their new daughter's name is also carefully chosen, which
12 relates to love, honesty, creativity, success, and in addition she is given a beautiful
13 middle name which honors her well loved Great Grandmother. Parents incorporate
14 At.B. with their daily routine alongside her sister, with specific consideration and
15 attention to their newborn's needs and schedule. At.B. is a sweet, happy baby,
16 enjoying an abundance of family love. Lots of pictures are taken of the children and
17 the whole family together. They are now a loving, happy family of four.

18 ***- On December 16, 2018, At.B. finds her way through the front door of
19 her home, and within minutes therefrom, reportedly steps onto the neighborhood
20 street while her mother is taking a few quick moments, while both children are
21 napping upstairs, to give food and water to their family dogs who are in their
22 backyard.***

23 49. December 16, 2018, was just like any other day. Family rises in the morning,
24 parents go to crib where At.B. is waking up, Stephanie meets her with a warm smile,
25 a "good morning" greeting as usual, and picks her up out of her crib all the while

1 cuddling her. Next, little sister, Al.B., is just starting to wake up as well in her
2 bassinet. Lloyd gently picks her up out of her bassinet, she is also met with a warm
3 smile from dad and a “good morning” greeting followed by a warm hug. Lloyd and
4 Stephanie happily tend to At.B. and Al.B, changing diapers and pajamas. The family
5 goes downstairs together and breakfast is properly prepared and children are
6 promptly and appropriately fed breakfast. Thereafter, the morning was normal and
7 uneventful.

8 50. Parents spent the day with At.B. and Al.B. at home. In the early afternoon, of
9 December 16, 2018, Lloyd makes a trip to the store for items needed. Children are
10 at home with Stephanie, playing, and taking nap time accordingly. While Lloyd is at
11 the store, sometime just before 3:08 p.m., At.B. somehow finds her way through the
12 front door of her home, and within minutes therefrom, reportedly steps onto the
13 neighborhood street while Stephanie is taking a few quick moments to give food and
14 water to their family dog in their backyard. Stephanie only goes out momentarily to
15 feed the dogs in the backyard while At.B. and Al.B. are napping upstairs.

16 51. Within seconds of stepping back in their house from just giving the family dogs
17 food and water in their backyard, Stephanie immediately notices that their front
18 door is open and when she walked through the door to investigate, she saw At.B.
19 being held by a lady standing right next to Stephanie’s garage door holding At.B.
20 Stephanie immediately asks what’s going on. Upon seeing Stephanie who had just
21 approached her, this unknown lady starts yelling at Stephanie and being very rude.
22 At the same time, Stephanie sees and hears the lady next door standing in her yard
23 who also begins screaming at Stephanie shouting derogatory comments at her.
24 Stephanie reaches for and takes At.B. in her arms from the unknown lady, tells them
25

1 to leave her alone, does not engage in an argument, and proceeds to walk into her
2 own house with her daughter and shuts the door.

3 52. Of note, the shouting neighbor lady had recently moved in next door with her
4 parents while she was currently in the middle of a custody battle over her young
5 son, and divorce proceedings. When she confronted Stephanie screaming, telling
6 her that some unknown person driving by, saw At.B. in the street in front of
7 Stephanie's house but knocked on the neighbor's front door asking if she knew this
8 child, she continued screaming terrible insults to Stephanie in the front yard. There
9 is a history of problems coming from the plaintiffs' neighbor, the reporting party to
10 TPD this incident on 12/18/19. This same neighbor lady is constantly heard publicly
11 loudly and caustically arguing with other people at various other times, including
12 doing same every time her husband, who she screams she is in the process of
13 divorcing and lives elsewhere, drops off their young son for her visitation time with
14 their child. As well, this neighbor's teenage resident, is also heard screaming and
15 pacing on the outside sidewalk, on numerous occasions telling everyone around that
16 he wants to "kill" himself. On another occasion, Lloyd and Stephanie called TPD on
17 those very same neighbors who for no reason at all, put a knife through their
18 adjoining backyard fence and stabbed their family dog, having Lloyd and Stephanie
19 rush the dog to the vet for care and stitches, which Stephand and Lloyd presented to
20 TPD. As well, it was reported, after sightings, that this same screaming neighbor
21 lady would go around outside at the early dark morning hours ringing other
22 neighbor doorbells and running away before the door was answered, just to cause
23 trouble. Lloyd and Stephanie kept their distance from that lady because of her
24 caustic and bizarre behavior. However, Lloyd and Stephanie, got along well with the
25 other neighbors who had lived around them when Lloyd and Stephone moved in

1 that neighborhood. Those neighbors would frequently be invited to gatherings
2 hosted by and held at Lloyd and Stephanie's home as well as neighborhood children
3 invited to birthday parties for Lloyd's children at their home as well, where fun and
4 good times was had by all.

5 53. Very shortly thereafter about 5 minutes from the intial call toTPD, and after the
6 confrontational next door neighbor and the unknown person in the car had gone, a
7 Tracy Police Officer came knocking at Stephanie's front door. The Tracy Police
8 Department Calls For Service Report documented the following: "Date: 12/16/18
9 Time: 15:08:08 2YR OLD FEMALE WAS RUNNING AROUND OUTSIDE...WENT INSIDE"
10 at about 5 minutes after initial call, TPD officer arrives at plaintiffs home for a
11 "WELFARE CHECK" TPD Officer goes to Stephanie's front door.....Stephanie cordially
12 answers the door and proceeds to have an amicable conversation with this Police
13 Officer. He explains why he was there and Stephanie said those people were rude
14 and that she did not know how her child had gotten out and invited the Officer to
15 come in. Lloyd had not yet arrived back home from the store. Stephanie proceeds
16 to invite the TPD Officer to come in her home. TPD Officer tells Stephanie it is not
17 necessary for him to come in but she insists. The Officer did so, and his body camera
18 caught at least a partial sweep of the entryway to the home and the nearby dining
19 room area which captures a clean, neat, tidy, well kept and furnished home. He
20 sees the doorknob on the inside of the front door which had a child safety
21 mechanism attached to that front doorknob that would have kept At.B. from even
22 turning the knob from the inside. He sees the child gate at the bottome of the
23 stairs. At.B. is in Stephanies arms, quiet and happy. He asks Stephanie where is
24 their other child and she proceeds to tell him she is upstairs napping and offers to
25 take him up to her room to see her. The TPD officer says that is not necessary since

1 the child is sleeping. TPD Officer tells Stephanie not to worry "this happens all the
2 time with children" and proceeded to tell her that this had happened with his own
3 children. Officer sees At.B., observes the home, hears no crying by Al.B. and at the
4 time of "15:29:39" the TPD Service Report documents "KIDS ARE FINE" - "15:29:53
5 PER #C11" - "15:32:41 Closed dispo : SERVICE RENDERED."

6 54. Sometime thereafter, Lloyd returns home from the store and Stephanie
7 proceeds to let him know what happened while he was gone.

8 - ***On January 2, 2019, 18 days after the December 16, 2019 incident, HHSA worker
9 Torrence arrived at the plaintiffs residence to conduct an unannounced home visit
10 stating she is following up on the December 16, 2019 incident. Children are
11 sleeping at the time of her arrival. Stephanie invites Torrence to come back and
12 relays that an appointment can be made within a week or two, for her to return
13 when at a time when the children are awake.***

14 55. Stephanie answers door and steps outside when Torrence arrives at her home
15 on 01/02/19.

16 56. Torrence states to Stephanie she is there as a follow up to the 12/18/19
17 incident, albeit 18 days later.

18 57. Stephanie tells Torrence the children are sleeping and she can make an
19 appointment with Stephanie and the children to come back in a week or two at a
20 time when they are awake. Torrence quickly became combative and refused
21 Stephanie's request, said she could make an appointment to come back, but not in a
22 week or two, and she proceeds to stomp off.

23 - ***On 01/03/19, unbeknownst to Plaintiffs because earlier that day they had
24 all left for a pre-planned trip, but according to the 01/16/19 Detention Report, "at***

1 **approximately 10:30 a.m." Torrence quickly sought and received a signed Order for**
2 **Entry by Judge Abdallah.**

3 58. On 01/03/19, at 10:30 a.m. Torrence received a signed Order for Entry by Judge
4 Abddallah.

5 59. Plaintiff's do not have, at this time, the transcript of the 01/03/19 proceeding as
6 to what was told to Judge Abdallah by defendants in order to secure his execution of
7 an Order for Entry to be served on Plaintiffs. Plaintiffs will request this and other
8 items and testimony during the discovery process of this case.

9 - *On 01/03/19 "at approxiimately 11:00a.m." according to the 01/16/19*
10 *Detention Report, "SW Torrence and SW Velasquez arrived at the residence for an*
11 *unnounced home visit. Torrence knocked on the door several time [sic] to no*
12 *answer."*

13 60. On 01/03/19, at 11:00 a.m. defendant Torrence returns with defendant
14 Velasquez accompanied by TPD to serve Order of Entry on Plaintiffs. Torrence
15 knocks several times on front door of plaintiffs home and there is no answer.

16 61. On 01/03/19, TPD Body Cam video captures a TPD Officer stating to defendants,
17 "He may not be here cuz his truck's not here."

18 62. On 01/03/19 with Torrence and Velasquez still at plaintiffs' front door, TPD Body
19 Cam video captures who appears to be defendant Velasquez stating "usually" the
20 Order/Warrant is only good for 24 hours.

21 63. On 01/03/19, in speaking with Torrence and Velasquez, TPD Body Cam video
22 captures TPD Officer speaking with one of the defendant social workers who states,
23 "We don't have that they are in danger right now, cuz we haven't gotten in."

24 64. On 01/03/19 in speaking with Torrence and Velasquez, TPD Body Cam video
25 captures TPD Office asking defendants Torrence and Velesquez while still outside

1 Plaintiff's home to serve Order/Warrant for Entry, "So your main goal is just to get in
2 the house check on the kids and look at the inside of the house." Defendants reply,
3 "Yeah".

4 - ***On 01/06/19 TPD Officer is at plaintiffs front door, and in speaking with
5 defendant social workers who are present outside Plaintiff's home as well to serve
6 Order/Warrant for Entry, states that he has been there the day before and one day
7 before that. Defendant Social Worker then calls plaintiffs telephone while at their
8 front door and after no answer appears to leave a voice message. Defendant
9 social worker present at door, next calls a defendant supervisor or notes that
10 plaintiffs own a big white truck with a big black bumper "that hasn't been here
11 since the first day you guys came out!" This is captured on TPD Body Cam video.***

12 65. Defendants have knowledge that a vehicle owned by plaintiffs has been missing
13 the entire time since 01/03/19, but this valuable piece of information is not
14 mentioned in defendants Detention Report.

15 - ***On 01/10/19 TPD Officer captures defendant social worker stating at
16 plaintiffs' front door in another attempt to serve plaintiffs with warrant, states,
17 "various social workers been attempting over the weekend"***

18 66. From 01/03/19, for several consecutive days and weeks thereafter, according to
19 defendants Detention report of 01/16/19, defendants and TPD return to Plaintiffs'
20 home to serve Notice of Entry Order/Warrant but found no one home each time and
21 all hours on different days, finding no one at plaintiffs home.

22 - ***Sometime after 01/03/19 but between that time and 01/16/19, Judge
23 Abdallah states he was in a hurry when he signed the 01/03/19 Order of Entry
24 regarding Plaintiffs and D.A. relays this to defendants.***

1 67. On 01/16/19, defendants Piva and Arbuckle met with D.A. David Sant at the
2 D.A.'s office. Mr. Sant speaks with defendants and states that he has spoken with
3 Judge Abdallah who said that he was in a hurry when he signed the 01/03/19 Order.
4 Therefore, Sant tells defendants Piva and Arbuckle that the warrants are to be
5 thrown out and new warrants needs to be prepared for Judge.

6 **- First Appearance Juvenile Dependency Court Hearing is scheduled for
7 01/16/19, which Plaintiffs were never served Notice and knew nothing about.**

8 68. On 01/16/19 a First Appearance Hearing was held in front of Judge Alva.
9 Plaintiffs were not served with notice of this hearing and knew nothing about it as
10 they were out of town on a pre-planned trip.

11 69. Plaintiffs do not have a transcript of that hearing held on 01/16/19.

12 70. Plaintiffs have reviewed a Minute Order of 01/16/19, which states social
13 worker, defendant, Piva was present for.

14 71. Minute Order of 01/16/19 states that Notice has been given, by personal
15 appearance, personal service, certified/first class mail or publication, as required by
16 law. Plaintiffs never received service by any of those means. Defendant Piva was
17 well aware that Plaintiffs were never served at their home as they were out of town,
18 which is not reflected on the Order.

19 72. The Minute Order of 01/16/19 states that the report of Social Worker and the
20 Petition filed 01/15/19 was read and considered and received into evidence.

21 73. On 01/16/19, the Court orders, "based on the information before the court"
22 that the minors are to be detained and temporary care and placement of the
23 minor(s) vested with HSA for placement at "MGCS or shelter care".

24 **- On 01/29/19, Defendants , Piva, together with an unknown HHSA worker,
25 seized Plaintiffs' children at a home address provided by the parents to the court**

1 ***appointed counsel for minor children, Gabrielle Tetreault. Piva takes the seizure of***
2 ***the children despite knowing that counsel representing children agreed with***
3 ***parents that they would not need to seize the children. Defendants Piva and her***
4 ***HHSA accomplice Without a proper Warrant, Without Evidence to Show Exigency,***
5 ***and Without Exploring Lesser Intrusive Alternative Means of Ameliorating The***
6 ***Speculative Safety Concerns***

7 74. While still out of town on their pre-scheduled trip, parents learn, just days
8 before 01/29/19 that there is a scheduled Juvenile Dependence Hearing regarding
9 their children which was scheduled for 01/30/19.

10 75. On Sunday, 01/20/19, paternal grandmother, Roxane, and her friend, who had
11 together gone to plaintiffs' home to give food and water to plaintiffs' dogs the entire
12 time plaintiffs' were out of town, as agreed upon with plaintiffs before they left,
13 found a Minute Order dated 01/16/19, posted on plaintiffs' front door which stated
14 the upcoming hearing of 01/30/19.

15 76. Paternal grandmother, Roxane, could not immediately reach plaintiffs.

16 77. The next day, 01/21/19, was a holiday, Martin Luther King, Jr. Holiday and the
17 court was closed. However paternal grandmother called several attorneys offices on
18 01/21/19 until she found one open. She wanted to legal advice and information
19 from the Order that apparently came from the D.A.'s office, which was closed for
20 the Holiday.

21 78. On 01/22/19, Roxane brings the Order she found at plaintiffs' front door to
22 meet with and retain Felicia Morrison, Juvenile Dependency lawyer in San Joaquin
23 County to ask what this notice meant, and what it possibly was all about advising
24 that parents were out of town since 01/03/19 on a pre-planned trip, not knowing
25 anything about this, and not served for anything regarding this notice.

1 79. On 01/22/19 Attorney Morrison immdiatly telephone Tetreault who are
2 colleagues. Attroney Morrison advises that Roxane is in her office after finding the
3 aforementioned Order. Teatreault is on speaker phone and suggested that Lloyd
4 and Stephanie be somehow contacted and place the minors with the maternal
5 grandmother, on 01/29/19 and have the parents show up at the rescheduled next
6 court date on 01/30/19 and the warrants would be recalled, and there would be no
7 need to seize the children. The agreement was confirmed was accomplished exactly
8 as Tetreault relayed.

9 80. On 01/29/19, children are taken by parents to maternal grandmother and
10 immediately provide the address to Tetreault through a phone from to Morrison.

11 81. On 01/29/19, despite Tetrault's stated and known agreement with Morrison
12 and parents that there was no need to seize the children once in confirmed
13 maternal grandmothers care, Defendant Piva, along with her HHSA accomplice,
14 immediately shows up at the address provided by parents and seize both children,
15 without conducting reasonable investigation, without evidence to show exigency,
16 and without exploring lesser intrusive alternative means of ameliorating their
17 speculative safety concerns.

18 82. On 01/29/19, Piva and her HHSA accomplice, stand at the front door of the
19 home where children are with maternal grandmother, never ask to go in, quickly
20 state they have a warrant, and ask that the children be handed to her immediately.
21 This all happens within minutes, and once Piva has possession of the children, she
22 promptly drives away with them. They are taken to Mary Graham Children's shelter
23 then for foster care placement and a medical exam, without parent notification or
24 consent.

1 83. Immediately when children are seized, paternal grandmother contacts parents
2 and tells them what just happened. Parents are extremely shocked and contact is
3 made with Morrison.

4 84. Morrison immediately contacts Tetreault who is extremely upset over what Piva
5 and her accomplice had just done.

6 85. Parents appear at the 01/30/19 hearing, parents are assigned public defenders.
7 Bench warrants previously issued for minors and parents are recalled. The matter
8 is continued by Judge Alva to March 6, 2019 at 2:00 p.m. "for Jurisdictional SSW to
9 arrange SUPERVISED visitation as to the PARENTS." Parents are devastated and the
10 horror of the separation from their children and placed in stranger care begins.

11 86. The parents find that the Application and Declaration in Support of Order
12 Authorizing Entry into Home is fraught with known falsehoods by defendants,
13 mischaracterizations of events and facts, outright lies such as, omissions among
14 other things, service on defendants of Order, knowing that plaintiffs were not home
15 and were told that plaintiffs and children, had left early on 01/03/19 for a pre-
16 planned trip, that plaintiffs had been completely

17 That plaintiffs had been completely cooperative and plaintiffs were cleared of any
18 neglect, purported domestic violence and anything else regarding any incidents with
19 their family and children, including the 12/18/19 incident by TPD who immediately
20 arrived at plaintiffs' home which was captured on his body cam; and which
21 defendant had, the stated "foul smell coming from inside and another baby crying"
22 was unsubstantiated and clearly a lie as verified by the responding officer and his
23 body cam; defendant states "I believe the reporting party to be reliable" which is
24 based on not knowing the RP at all, who could be making the whole story up,
25 defendants do not mention at all that it was approximately 6 minutes from TPD call

1 to arrival of Officer per call reports and officer saw At.B. in mother's arms with dry
2 hair, dry clothes, and no soiled diaper; defendant Torrence mentions in a DSL and
3 also "service report" that she had responding Officer's names and phone numbers
4 but there is no mention that she called any of them regarding any incidents perhaps
5 because the TPD call reports clear parents of any wrongdoing whatsoever; there is
6 no mention that when TPD Officer arrived at the plaintiffs' home defendants leave
7 out that parents are cooperative and bring children out in any other requested time
8 of neighbor calling; defendants portray information on the 01/03/19 Application and
9 Declaration as if the police said it and had personal knowledge, when in fact it was
10 just the call they received from RP and what she said such as ..."on the date of the
11 incident, December 16, 2018 Tracy Police Department did a Service Report
12 indicating that "The front door is open to the residence. Fowl smell coming from
13 inside and another baby crying."; defedants do not disclose that RP states that she
14 went inside plaintiffs home when front door was reportedly open, making a
15 statement that it appeared to be abandoned and was a complete mess, but when
16 asked, the RP could not describe anything specific in plaintiffs home; and which the
17 responding TPD, which is also captured on body cam, completely exonerates
18 plaintiffs of all these lies by RP neighbor; infact defendants do include that TPD
19 responding officer on 01/02/19 documents that "kids are fine" but then goes on to
20 state that "there was not a home check conducted" which was not at all accurate.

21 87. Defendants include all of the above-referenced mischaracterizations, outright
22 lies, omissions, and more, in their 01/16/19 Detention Report which was
23 apparently filed with the court on 01/15/19.

24 - Mere days before Plaintiffs trial scheduled in May of 2019, all the while since the
25 date of seizure of plaintiffs children on 01/29/19 defendants delay, ignore and

refuse to place children with immediately approved foster care family members, did County Counsel Alastair Schaefer finally state to plaintiffs counsel who had argued that the Officer's body cam recorded the discrepancy between the RP's statements and the evidence on his video, that she looked at the video footage which she admitted she had all along, of the TPD body cam video, and finally after viewing it admitted that said to plaintiffs counsel she realized the claims made against the parents and of the inside of their house were completely false.

- After counsel for defendant finally viewed the exculpatory evidence, the day before plaintiffs scheduled trial, which they had all along, county counsel admitted it exonerated parents, the case dismissed at the hearing the next day.

88. Plaintiffs counsel is called by county counsel the night before plaintiffs' trial and states that if she and HHSA workers could meet within an hour and a half with parents to see where they were living now, hence where the children would be living, they would dismiss the case at the start of trial the next day due to finally viewing the TPD body cam of 12/18/19 that plaintiffs counsel had brought up to her in stating this evidence which they had that should the discrepancy of the reported facts of 12/18/19.

89. Plaintiffs counsel made the 90 minute trip in rush hour traffic and met with county counsel and HHSA workers at parents current residence which was found, clean, well furnished, neatly well stocked, and tidy all around.

- On 5/14/19 case was dismissed and children finally returned to parents.

FIRST CLAIM FOR RELIEF (42 U.S.C. §1983)

Violation of Plaintiffs' Rights to Substantive and Procedural Due Process

1 **in the Seizure of At.B. and Al.B. (By Plaintiffs Lloyd Thomas Bernhard, II and**
2 **Stephanie Celeste Tejada-Otero Against Defendants, Sonia Piva and her**
3 **unknown HHSA accomplice, DOE HHSA Workers 2 –10, and DOES 1 – 50 inclusive)**

4 90. Plaintiffs restate, and to the extent applicable, incorporate herein each of the
5 foregoing allegations as if set forth herein in full.

6 91. At all times relevant herein, the right to familial association guaranteed under
7 the First and Fourteenth Amendments to the United States Constitution was clearly
8 established, such that any reasonable “child welfare” services agent in Defendants’
9 position and circumstances, as alleged above, would have known that it was
10 unlawful to seize At.B. and Al.B. from the care, custody, and control of Plaintiffs
11 without first obtaining a proper warrant.

12 92. Defendants refrained from undertaking a reasonable investigation prior to
13 making the decision to seize At.B. and Al.B. from Plaintiffs’ care. Moreover, at the
14 time these Defendants, and each of them, made the decision to seize At.B. and Al.B.
15 from their parents’ care they knowingly refrained from even considering lesser
16 intrusive alternative means of ameliorating any perceived danger to At.B. and Al.B.
17 In fact, at the time these Defendants seized At.B. and Al.B, there was no evidence in
18 Defendants’ possession to suggest that At.B. and Al.B was in immediate danger of
19 suffering severe injury or death at the hands of either of their parents in the short
20 time it would have taken to obtain a court order.

21 93. Nonetheless, these Defendants, and each of them seized At.B. and Al.B without
22 a proper warrant or other similar court order, under non-exigent circumstances,
23 over Plaintiffs’ strenuous objections – all in violation of Plaintiffs’ rights arising under
24 the United States Constitution’s Fourteenth Amendment.

1 These Defendants, and each of them, were at all times acting under color of state
2 law when they seized At.B. and Al.B. from Plaintiffs' care, custody, and/or control
3 without a warrant when their was no legal or legitimate basis to do so.

4 94. Prior to At.B. and Al.B.'s unwarranted seizure, these Defendants, and each of
5 them discussed the proposed unwarranted seizure. As a result of that discussion,
6 each Defendant knew or should have known all facts relevant to their joint decision
7 to forego warrant requirements, including the fact that the child was not under
8 imminent threat of serious bodily harm at the hands of his parents. Moreover, these
9 Defendants, and each of them, knew definitively that At.B. and Al.B were in no
10 danger of suffering severe bodily injury or death in the short time it would have
11 taken for them to obtain a proper warrant. Nonetheless, these Defendants, and
12 each of them, agreed and/or approved of the decision to forgo obtaining judicial
13 authorization prior to seizing At.B. and Al.B. from Plaintiffs' care, custody, and/or
14 control.

15 95. As a direct and proximate consequence of the aforementioned conduct,
16 Plaintiffs have suffered, and will continue to suffer, damages, including but not
17 limited to economic injury, physical and/or mental anxiety and anguish and
18 emotional distress according to proof at trial.

19 96. In doing the things alleged herein above, these Defendants, and each of them,
20 acted intentionally and/or with a conscious disregard for Plaintiffs' constitutional
21 rights. As a result of the intentional and willful conduct of these defendants in
22 effectuating the knowing and wanton violation of Plaintiffs' constitutional rights,
23 Plaintiffs are entitled to recover punitive damages against these individual
24 defendants in an amount according to proof at trial

25 **SECOND CLAIM FOR RELIEF (42 USC §1983)**

1 **Non-Consensual Unwarranted Medical Examinations, Medical Procedures,**
2 **and Genital Examination (By All Plaintiffs Against S;; Defendants, DOE HHSA**
3 **Workers 2 - 10, and DOES 1 through 20, inclusive)**

4 97. Plaintiff incorporates the above allegations of fact and law as though fully set
5 forth herein.

6 98. At all relevant times, the constitutional right to remain free of non-consensual
7 intrusive medical examinations and to make decisions regarding the medical care of
8 one's child has been so "clearly established" that any reasonable HHSA worker in
9 Defendants' circumstances would know that it is a violation of Plaintiffs'
10 constitutional rights to subject their child to a forensic medical examination without
11 just cause, parental consent, or a court order/warrant authorizing the examination.

12 See, Swartwood v. County of San Diego, 2014 U.S. Dist. LEXIS 182020, *58-59 (S.D.
13 Cal. Sept. 30, 2014) "[T]he Constitution assures parents, in the absence of parental
14 consent, physical examinations of their child may not be undertaken for
15 investigative purposes at the behest of state officials unless a judicial officer has
16 determined, upon notice to the parents, and an opportunity to be heard, that
17 grounds for such an examination exist and that the administration of the procedure
18 is reasonable under all the circumstances."); see also, Mann v. Cty. of San Diego, 907
19 F.3d 1154, 1163 (9th Cir. 2018).

20 99. These Defendants, and each of them, violated said rights first when they
21 directed that such an unwarranted forensic/investigational medical examination be
22 performed without first obtaining a proper warrant or knowing and voluntary
23 parental consent; then again when they excluded Plaintiffs from At.B. and Al.B.'s
24 followup medical examinations without any just or legal cause. Finally, All
25 Defendants further violated Plaintiffs' constitutional rights when they, themselves

1 performed an examination of At.B. and Al.B. – and took pictures of their body parts
2 for their own purposes.

3 100. In addition to the foregoing, parents also have a guaranteed constitutional right
4 arising from the liberty interest in family association to be with their children while
5 they are receiving medical attention or undergoing medical procedures. Wallis ex
6 rel. Wallis v. Spencer, 202 F.3d 1126, 1141-1142 (9th Cir. 1999). This right includes
7 the right of parents to make important medical decisions for their children. Id. at
8 1141. 214. No reasonable HHSA agent in these Defendants' position could have
9 believed that the above mentioned conduct was lawful or even abstractly justifiable.
10 In fact it was not.

11 101. These Defendants, and each of them, had an affirmative duty and obligation to
12 recognize, acknowledge, and respect Plaintiffs' constitutional rights and to conduct
13 themselves in a manner that confirms to, provides for the preservation of, and does
14 not violate those rights. These rights include, without limitation, the right to privacy,
15 family integrity and the right to remain free of non-consensual unwarranted forensic
16 medical examinations, the right to be present at such examinations absent an
17 affirmative showing of good cause for exclusion, the right to control and participate
18 in medical decisions relative to their children – all arising under the First and
19 Fourteenth Amendments to the United States Constitution.

20 102. These Defendants, and each of them, were acting under color of state law
21 when they jointly acted, agreed, and/or conspired to violate Plaintiffs' constitutional
22 rights by, but not limited to, the performance of unwarranted and non-consensual
23 medical examinations and procedures on Plaintiffs' children.

24 103. As a direct and proximate consequence of said misconduct, Plaintiffs have
25 suffered, and will continue to suffer economic damages as well as but not limited to

1 physical and/or mental anxiety and anguish and other emotional injury according to
2 proof at trial

3 104. In doing the things alleged herein, these Defendants, and each of them, acted
4 intentionally and/or with a conscious and callous disregard for Plaintiffs'
5 constitutional rights. As a result, Plaintiffs are entitled to recover punitive damages
6 against these individual Defendants, and each of them, according to proof at trial.

7 **THIRD CLAIM FOR RELIEF (42 USC §1983)**

8 **Deception in The Creation of and/or Presentation of Evidence/False Reporting**

9 **(By All Plaintiffs All Defendants, DOE HHSA Workers 2 - 10, and DOES 1
10 through 20, inclusive)**

11 105. Plaintiff incorporates the above allegations of fact and law as though fully set
12 forth herein.

13 106. The right to familial association guaranteed under the Constitution's
14 Fourteenth Amendment is so "clearly established" such that any reasonable HHSA
15 worker and/or child abuse investigator, or other governmental agent, or person
16 acting in an investigatory capacity – including these Defendants, and each of them,
17 would know it is unlawful to continue to detain a child from the care, custody and
18 control of its parents based on knowingly false, and/or based on a juvenile court
19 order which the particular Defendant fraudulently obtained, or caused to be
20 fraudulently obtained.

21 107. Plaintiffs are further informed and believe and thereon allege that the right of a
22 parent to remain free of the government's fraudulent creation and/or presentation
23 of false, misleading, and/or deceptive, and/or suppressed material exculpatory
24 evidence in juvenile court proceedings is so clearly established that any government
25 agent or person acting in an investigatory capacity faced with these. Defendants'

1 circumstances would know it is a violation of the constitution to either create, or
2 present deceptive evidence against a parent in juvenile court proceedings. Hardwick
3 v. Cty. of Orange, (9th Cir. 2017) 844 F.3d 1112, 1118-19; "No official with an IQ
4 greater than room temperature in Alaska could claim that he or she did not know
5 that the conduct at the center of this case violated both state and federal law. The
6 social workers in this case are alleged to have knowingly and maliciously violated the
7 law in their attempt to sever [Plaintiff's] protected relationship with her [daughter].
8 Perjury is a crime under both federal and California state law, as is the knowing
9 submission of false evidence to a court. 18 U.S.C. § 1621; Cal. Penal Code § 118.
10 Both crimes make no distinction between criminal and civil proceedings. This
11 malicious criminal behavior is hardly conduct for which qualified immunity is either
12 justified or appropriate."

13 108. At all relevant times alleged herein, Defendants, and each of them, were acting
14 under color of state law when they acted, agreed, and/or conspired to employ
15 fraudulent tactics to remove and detain, and continue to detain, At.B. and Al.B. from
16 Plaintiffs' custody first by creating false evidence, then later by presenting known
17 materially false, incomplete, and misleading evidence to the Juvenile Court.

18 109. The actions of these Defendants, and each of them, as alleged herein above
19 were undertaken with a knowing and deliberate indifference to Plaintiffs' rights,
20 and/or with the specific intention of harming them both personally and in their
21 relationship with their children, At.B. and Al.B.

22 110.. These Defendants, and each of them, maliciously conspired to violate
23 Plaintiffs' constitutional rights including their rights arising under the First and
24 Fourteenth Amendments to the United States Constitution – and did violate their
25 rights by, but not limited to: The creation and propagation of false information in

1 Defendants' contact notes, Application and Declaration in Support of Order
2 Authorizing Entry Into Home, and Detention Report with the intention that said
3 information be incorporated into later Court Reports by others; and then later, by
4 the making of knowingly false reports of child neglect and child dangerment; the
5 intentional fabrication of inculpatory evidence by All Defendants, DOE HHSA
6 Workers 2 - 10, and DOES 1 through 20, inclusive – all knowing and intending that it
7 would be presented to the Juvenile Court, accepted into evidence, and relied upon
8 by the juvenile court in making its decisions.

9 111. The aforementioned misrepresentations and omissions, and others, were
10 material to the outcome of the Detention Hearing in that, as alleged herein above,
11 the Juvenile accepted them into evidence and relied upon them in making each and
12 every one of its findings and orders.

13 112. The aforementioned conduct by All Defendants, and each of them, was
14 malicious and had the effect of denying Plaintiffs their right to a fair hearing as well
15 as their rights to continued custody of their children, At.B. and Al.B., for an
16 unnecessary and excessive period of time. By spreading lies, maliciously refusing to
17 provide exculpatory evidence, and presenting fabricated evidence to the Juvenile
18 Court during the pendency of the dependency proceedings these Defendants, and
19 each of them, knowingly and intentionally violated Plaintiffs' rights arising under the
20 First and Fourteenth Amendments to the United States Constitution.

21 113. As a direct and proximate result of these Defendants' actions Plaintiffs have
22 suffered and will continue to suffer economic injury, mental and emotional injury as
23 well as physical manifestations of such mental and emotional suffering, all to an
24 extent, degree, and amount subject to proof at trial.
25

1 114. Plaintiffs are informed and believe and thereon allege that Defendants, and
2 each of them, acted with malice, oppression and fraud or otherwise acted with a
3 willful, wanton, knowing, and conscious disregard for Plaintiffs' rights in a
4 despicable, vile and contemptible manner. Therefore, Plaintiffs are entitled to an
5 award of punitive damages for the purpose of punishing these Defendants, and each
6 of them, in order to deter them, and others similarly situated, from similar such
7 misconduct in the future.

FOURTH CLAIM FOR RELIEF

(42 USC §1983) Malicious Prosecution (By All Plaintiffs Against All Defendants, DOE HHSA Workers 2 - 10, and DOES 1 through 20, inclusive)

115. Plaintiff incorporates all of the above allegations as though fully set forth herein.

116. At all relevant times, Plaintiffs had a cognizable and constitutionally protected right to familial association.

117. As per the above allegations, Defendant Piva, and her HHSA accomplice, seized At.B. and Al.B. without a proper warrant, in the absence of any exigent circumstance and without first completing a reasonable investigation. She then knowingly inserted false information into her notes and entries thus setting in motion the series of events that ultimately led to the initiation of Juvenile Dependency proceedings.

118. Upon receiving the information from Piva, Defendants all together made the decision to initiate juvenile dependency proceedings by filing their initiating petition.

119. On information and belief, as the Juvenile Dependency case progressed, in

1 consultation with Defendant Piva and with her approval and advice, Defendant Piva
2 continued to press her knowingly false claims against Plaintiffs without probable
3 cause and in an effort to sever their custodial relationship with their children.

4 120. On information and belief, these Defendants, and each of them, contrived the
5 charges against these Plaintiffs to justify Defendants seizure of At.B. and Al.B.,
6 submitted false reports, initiated Juvenile Dependency proceedings in bad faith, and
7 continued to detain At.B. and Al.B. from their parents when there was no legitimate
8 evidentiary basis to do so with the intention of interfering Plaintiffs' constitutionally
9 protected familial rights.

10 121. In doing the things alleged herein above, these Defendants, and each of them,
11 engaged in intentional, knowing, and malicious misconduct with the purpose of
12 depriving the Plaintiffs of their constitutionally protected right to the custody, care,
13 and control of their children, At.B. and Al.B., – and then continued the dependency
14 proceedings for a prolonged period of time when they knew there was no legitimate
15 basis to do so.

16 122. Plaintiffs obtained a favorable termination to the proceedings when the
17 Juvenile Dependency case was dismissed in the interest of justice without any
18 jurisdictional finding having been made.

19
20 123.. In summary, these Defendants, and each of them, initiated Juvenile
21 Dependency proceedings to strip Plaintiffs of their rights to the care, custody, and
22 control of their children without probable cause with malice through the use of
23 fabricated and false evidence as well as suppressed material exculpatory
24 information..

1 124. The aforementioned conduct by these Defendants, and each of them, was
2 malicious and had the effect of denying Plaintiffs their right to a fair hearing as well
3 as their rights to continued custody of their children, At.B. and Al.B., for an
4 unnecessary and excessive period of time. By spreading lies, maliciously refusing to
5 provide exculpatory evidence, and presenting fabricated evidence to the Juvenile
6 Court during the pendency of the dependency proceedings these Defendants, and
7 each of them, knowingly and intentionally violated Plaintiffs' rights arising under the
8 First and Fourteenth Amendments to the United States Constitution.

9 125. As a direct and proximate result of these Defendants' actions Plaintiffs have
10 suffered and will continue to suffer economic injury, mental and emotional injury as
11 well as physical manifestations of such mental and emotional suffering, all to an
12 extent, degree, and amount subject to proof at trial.

13 126. Plaintiffs are informed and believe and thereon allege that Defendants, and
14 each of them, acted with malice, oppression and fraud or otherwise acted with a
15 willful, wanton, knowing, and conscious disregard for Plaintiffs' rights in a
16 despicable, vile and contemptible manner. Therefore, Plaintiffs are entitled to an
17 award of punitive damages for the purpose of punishing these Defendants, and each
18 of them, in order to deter them, and others similarly situated, from similar such
19 misconduct in the future. FIFTH CLAIM FOR RELIEF (42 USC §1983) Monell Related
20 Claims (By Plaintiffs Against Defendant County of San Joaquin)

21 127. Plaintiff incorporates all of the above allegations as though fully set forth
22 herein.

23 128. Defendant County of San Joaquin, including through its entity HHSA, and those
24 individuals in their official capacity who had supervisory and/or policy making
25 authority, had a duty to Plaintiffs and those similarly situated to establish,

1 implement and follow policies, procedures, customs and/or practices which conform
2 with, and provide for the protections guaranteed Plaintiffs under the United States
3 Constitution, including those under the First and Fourteenth Amendments. This
4 includes, without limitation, protection of the right to substantive and procedural
5 due process and to be free of unwarranted governmental interference in the
6 custody of their child, C.H. 243. Defendant County of San Joaquin also had a duty to
7 use reasonable care to select, assign, supervise, train, control and review the
8 activities of all their agents, officers, employees and those acting under them,
9 including within HHSA, so as to protect these constitutional rights; and to refrain
10 from acting with deliberate indifference to the constitutional rights of Plaintiffs in
11 order to avoid causing the injuries and damages alleged herein. Count One
12 Unwarranted Seizure of a Child.

13 128. Plaintiff incorporates all of the above allegations as though fully set forth
14 herein.

15 129. Based on the duties charged to the County and delegated to its social workers,
16 including the powers to seize children from their parents' custody, the County knew
17 or should have known of the need to establish policies, practices, and customs
18 required to protect the civil rights of parents and children with whom their agents
19 regularly came into contact – and to adequately train its HHSA workers.

20 130. At the time of the underlying events, the County's customs and practices
21 relating to the removal of a child from its parent's custody included, but were not
22 limited to: a. The custom and/or practice of removing children from their parents'
23 custody without consent or a court order, in the absence of exigent circumstances
24 (i.e., imminent danger of serious bodily injury). b. The custom and/or practice of
25 removing children from their parent's custody without first performing a reasonable

1 investigation. c. The custom and/or practice of seizing children from their parent's
2 custody without consent, court order, and/or exigency, based on a hope that further
3 investigation would turn up facts suggesting the seizure was justified. d. The custom
4 and/or practice of continuing the detention of children from their parents in spite of
5 the fact that there was no known legitimate or legal basis to do so. e. The custom
6 and/or practice of requiring a social worker to follow written policies, procedures,
7 and/or practices, when seizing a child from their parents' custody without consent
8 or a court order, in the absence of exigent circumstances (i.e., imminent danger of
9 serious bodily injury. f. The custom and/or practice of requiring a non-offending
10 parent to admit unproven allegations to prevent removal of a child from his or her
11 custody. (See, e.g., Parkes v. Cty. of San Diego, 345 F. Supp. 2d 1071, 1092 (S.D. Cal.
12 2004).) g. The custom and/or practice of removing children from a parent's custody
13 without consent or a court order, and in the absence of specific, articulable evidence
14 that a particular parent was likely to cause serious physical bodily injury to that
15 child.

16 131. At the time of the underlying events, the County failed to promulgate sufficient
17 and/or adequate policies, processes, and procedures relating to the removal of a
18 child from its parent's custody.

19 132. When Defendants Piva and her HHSA accomplice, DOE HHSA Workers 2 - 10,
20 and DOES 1 through 20, inclusive, seized At.B. and Al.B. from Plaintiffs' custody, they
21 were acting pursuant to and in accordance with the County's child removal customs,
22 polices, and practices. Defendants Piva and her HHSA accomplice, DOE HHSA
23 Workers 2 - 10, and DOES 1 through 20, inclusive, decision to seizure and seizure of
24 At.B. and Al.B. was within the training and standards Defendants received from the
25 County.

1 133. At.B. and Al.B.'s unwarranted seizure and continued unjustified detention from
2 his parents was not an isolated incident. Instead, County social workers and
3 supervisors regularly seize children from their parent's custody without consent,
4 court order, and/or exigency. These past unlawful seizures have resulted in several
5 lawsuits against multiple offending social workers (for violation of constitutional
6 rights) and the County (for its customs being the moving force behind these
7 violations). Thus, the County of San Joaquin is, at minimum, on at least inquiry
8 notice of the existence of a substantial deficiency in its policies, customs, and/or
9 practices.

10 134. Over the years, the County and its employees engaged in similar violations of
11 constitutional rights by seizing children from their parents' custody without consent
12 or a court order, in the absence of exigent circumstances (i.e., imminent danger of
13 serious physical bodily injury). These unlawful seizures have resulted in several
14 lawsuits against multiple offending social workers (for violation of constitutional
15 rights) and the County (for its customs being the moving force behind these
16 violations). Several of these lawsuits ended with substantial settlements.
17 Accordingly, Plaintiffs are entitled to partial summary judgment against [the County
18 Social Worker and Social Worker Supervisor]."

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1/ or sum

JURY DEMAND

Plaintiffs, Lloyd Bernhard and STEPHANIE OTERO, hereby demand a jury trial as to all issues so triable.

PRAYER

Stephanie Celeste
WHEREFORE, Lloyd Bernhard and Tejada-Otero pray for judgment against

Defendants, and each of them, as to all causes of action, as follows:

- 4 1. General damages and special damages according to proof, but in no event less than
- 5 \$1,000,000;
- 6 2. As against the individual, human being, Defendants, punitive damages as allowed
- 7 by law;
- 8 3. Attorneys fees and costs pursuant to 42 U.S.C. § 1988, and any other appropriate
- 9 statute;
- 10 4. Injunctive relief as allowed by law;
- 11 5. Such further relief as the Court deems just and proper.

Dated: December 302022
12/ 30/22

Lloyd Bernhard, II

Stephanie Tejada-Otero